



Use Tax & Your Business

The West Virginia State Tax Department Revenue has begun a major effort to improve administration and collection of the West Virginia use tax. Accordingly, all businesses are being reminded that it may be in their best interest to review their practices of calculating and remitting West Virginia use tax before being contacted by the Department.

Legislation enacted in 1987 and 1989 narrowed or eliminated the exemptions from sales and use taxes previously available to most businesses making them liable for payment of West Virginia use tax if the business uses any taxable tangible personal property or services in West Virginia upon which the West Virginia sales tax was not paid (unless the purchase continues to be exempt). Even before 1987, many businesses (including businesses rendering professional or personal services and wholesalers) were subject to use tax on purchases for use in their business activities.

A recent review of the Department's records disclosed that of the more than 40,000 employers remitting employer withholding taxes to the State, less than 2,000 were registered to remit West Virginia use tax. We believe that many businesses are not complying with West Virginia's use tax law. Accordingly, greater emphasis is being placed on use tax compliance. Initial efforts will concentrate on businesses that are not registered to remit the use tax.

Q. What is the Use Tax?

A. West Virginia's use tax is a 6% tax on the use of tangible personal property or services in West Virginia where West Virginia sales tax has not been paid. All West Virginia sales tax exemptions equally apply to the use tax. Accordingly, there is no use tax applied to items that would be exempt from sales tax if purchased in West Virginia.

Q. What types of businesses are liable for the use tax?

A. Following is a nonexclusive list of major business groupings (and taxable items) that should pay and remit West Virginia's use Tax:

- Banks (most items)
- Contract Miners (most items not directly used or consumed in manufacturing production)
- Contractors (most items)
- Hospitals (most items)
- Manufacturers (most items not directly used or consumed in manufacturing production)
- Professionals (most items)
- Real Estate Management Companies (most items)
- Retailers (most items not resold)
- Service Providers (most items not resold)
- Wholesalers (most items not resold)

This brief list is not all inclusive. Many more business groupings have use tax liability for taxable items purchased without payment of sales tax.

Examples:

A retailer buys a cash register for use in West Virginia from an Illinois business supply vendor who fails to collect the West Virginia sales or use tax. The West Virginia retailer is liable for the use tax and must remit the use tax directly to the State.

A manufacturer pays a management consultant to analyze a West Virginia facility. The consultant fails to collect West Virginia sales or use tax. The manufacturer is liable for the use tax and must remit the use tax directly to the State.

An Ohio contractor brings building supplies from Ohio that have not been subject to any states' sales or use tax into West Virginia for a capital improvement job. The contractor is liable for West Virginia use tax and must remit the tax directly to the State.

A West Virginia corporation hires a Maryland CPA firm to conduct an audit of its records. The fee paid to the CPA firm is exempt from the West Virginia tax regardless of where the work is performed because the professional service of a CPA is exempt from both the sales and the use tax.

Q. How do you report and pay use tax?

A. Businesses who make taxable purchases from suppliers (including out-of-state suppliers) who do not collect West Virginia sales or use tax must pay the use tax directly to the West Virginia State Tax Department. The use tax must be paid on a sales and use tax return (**Form WV/CST-200CU**) and is due on or before the 20th day of the month following the ending of the filing period. The use tax rate is 6%. Businesses who have not established a sales and use tax account with the West Virginia State Tax Department should contact the Department immediately to establish the proper account. When a sales and use tax account is established, the Tax Department will automatically provide a sales and use tax form to the business prior to the due date of the return.

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TDD Service for the hearing impaired: 1-800-2TAXTDD (1-800-282-9833)